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Counsel for Defendant Avery

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

_____)	
BRIAN HOLL, et al.)	
)	
Plaintiffs,)	
)	
v.)	Case No. 3:24-CV-00273-JLR
)	
SHARON AVERY, et al.)	
)	
Defendants.)	
_____)	

MOTION FOR RELIEF FROM LOCAL CIVIL RULE 16.3

Defendant Sharon Avery, in her official capacity as Acting Chairwoman of the National Indian Gaming Commission (“NIGC”), moves this Court to relieve the parties of the Local Rule 16.3 requirements and deadlines for this case and allow for a stipulated briefing schedule for the administrative record and briefing on the merits, *after* the Court rules on the Tribe’s pending *Motion to Dismiss*, ECF No. 13, and *after* Defendant Avery files any answer to the First Amended Complaint, ECF No. 7.

Pursuant to Local Civil Rule 7.1(e) and 5.1(f)(2), Defendant Avery incorporates

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by reference her contemporaneously filed *Motion to Stay*, ECF No. 16. The facts and argument apply equally to the relief sought in this Motion.

It is in the interests of justice and judicial economy to relieve the parties of the Rule 16.3 deadlines in this case until the Court rules on the Tribe's pending *Motion to Dismiss*, ECF No. 13, and until the Court rules on any dispositive motion filed by Defendant Avery in response to the First Amended Complaint. Rulings in favor of the Defendants on either of those motions may dismiss this case in its entirety and obviate the need for Local Rule 16.3 procedures.

Absent the relief sought in this Motion, Local Rule 16.3 would require the filing of an administrative record within 60 days (by April 29, 2025), and for Plaintiffs to file their opening merits brief 30 days thereafter. In other words, proceeding under the current Local Rule 16.3 deadlines could lead to merits briefing prior to ruling on the threshold jurisdictional issues presented in the Tribe's *Motion to Dismiss* and before Defendant Avery ever files an answer. It is thus in the interest of justice and judicial economy to relieve the parties of the Rule 16.3 deadlines in this case and instead order the parties to agree to a briefing schedule following the adjudication of all responsive pleadings. This relief would avoid clogging the Court's docket with potentially unnecessary filings, *see* ECF No. 16 *Motion to Stay*, as well as avoid the undue burden of litigating jurisdictional and substantive issues at the same time.

Given the various jurisdictional issues that are presented in the Tribe's *Motion to Dismiss*, prudent case management warrants waiving the Local Rule 16.3 deadlines.

Otherwise, if the tight timelines of Local Rule 16.3 are in effect, they could cause overlap of the resolution of the Tribe's Motion, Defendant Avery's initial pleadings, the production of the administrative record, and Plaintiffs' opening brief. Should this case proceed to the merits, the parties can work to develop a stipulated briefing schedule to present to the Court at the appropriate time. Defendant Native Village of Eklutna does not object to this Motion.

For the reasons stated above and, in its *Motion to Stay*, Defendant Avery respectfully requests that this Court grant this Motion.

DATED: February 28, 2025

Respectfully submitted,

LISA LYNNE RUSSELL
Deputy Assistant Attorney General
Environment and Natural Resources Division

By: /s/_____

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Certificate of Service

I hereby certify that on February 28, 2025, a copy of foregoing document was served electronically via ECF on:

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Counsel for Defendant Native Village of Eklutna:

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By: /s/ Amanda Eubanks
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